

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ELISA V. GARCIA,

Plaintiff,
vs. Civ. No. 18-0509 KG/GJF

BANK OF AMERICA, N.A., *et al.*,

Defendants.

ORDER

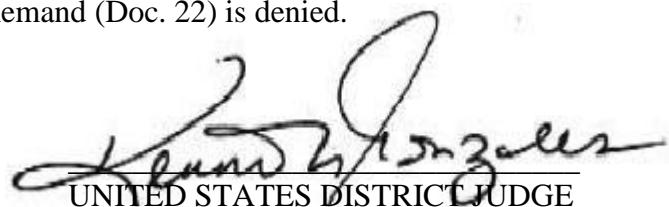
This matter comes before the Court on Defendant Nationstar Mortgage LLC's (Nationstar) Motion for Leave to File a Reply in Opposition to Plaintiff's Motion for Remand. (Doc. 22). Plaintiff Garcia has filed a response in opposition. (Doc. 27). Having considered the briefs and the applicable law, the Court denies the motion.

This lawsuit originally was filed in the Second Judicial District Court, Bernalillo County, State of New Mexico, D-202-CV-2018-02659. Subsequently, Defendants Bank of America, N.A. (BANA) and Federal National Mortgage Association (Fannie Mae), filed its Notice of Removal to Federal Court, (Doc. 1), to which Nationstar consented and joined in. Plaintiff has filed a Motion to Remand, (Doc. 7). BANA and Fannie Mae have filed a response to the Motion to Remand, (Doc. 14), and Plaintiff filed her reply, (Doc. 20). Defendant Nationstar did not file a separate response. Plaintiff cites Local Rule 7.1(b) in her reply to argue that Nationstar's failure to file a response to the Motion to Remand must be construed as its consent to a remand. In the instant motion, Nationstar contends it does not and has not consented to Plaintiff's Motion to Remand, and, having joined and consented to removal, it was not required to file its own response.

Local Rule 7.1(b) provides in pertinent part, "The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to

grant the motion." The Court construes Nationstar's motion styled request to "File a Reply," (Doc. 22), as a request for permission to now file a response to Plaintiff's Motion to Remand, (Doc. 7). The Court notes Nationstar was served with the underlying complaint, as evidenced in Document 1-1. The Court also notes Nationstar's joinder and consent to removal. The Court construes Nationstar's consent to removal as opposition to this lawsuit proceeding in state court and thus, to Plaintiff's Motion to Remand the case to state court. Therefore, a response from Nationstar to Plaintiff's Motion to Remand is not necessary, especially since Nationstar's opposition is well-represented in BANA and Fannie Mae's response to the Motion to Remand.

IT IS, THEREFORE, ORDERED that Defendant Nationstar's Motion for Leave to File a Reply in Opposition to Plaintiff's Motion for Remand (Doc. 22) is denied.



UNITED STATES DISTRICT JUDGE